



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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MARY F. McTIGUE
DIRECTOR

July 11, 1994
AO-94-19

The Honorable Henri Rauschenbach
State House - Room 315
Boston, MA 02133

Re: Reimbursement of lodging expenses

Dear Senator Rauschenbach:

This letter is in response to your recent request for an advisory opinion concerning reimbursement of lodging expenses incurred in connection with the occasional use of campaign funds to pay for lodging in Boston while attending legislative conferences.

You have stated that you spent five nights in Boston while attending legislative conferences relating to the state budget. You are interested in knowing the effect of a recent advisory opinion issued by this office, AO-93-14, on reimbursement of this type of expenditure. You stated that you have not yet used your campaign funds for this purpose.

For the reasons which follow, your political committee's payment of lodging expenses would be consistent with M.G.L. c. 55, the campaign finance law only if you forego the per diem that you might otherwise be entitled to for that day or days as a member of the Legislature when attending a legislative conference in Boston, pursuant to M.G.L. c. 3, s. 9B.¹

Section 6 of M.G.L. c. 55 states, in pertinent part, "[a] . . . political committee . . . may receive, pay and expend money or other things of value for the enhancement of the political future of the candidate . . . for which the committee was organized so long as such expenditure is not primarily for the candidate's or any other person's personal use . . ." (Emphasis added).

¹ M.G.L. c. 3, s. 9B provides allowances "for mileage, meals and lodging" (emphasis added) which vary depending on the distance a legislator must travel to attend sessions of the Legislature. For residents of Brewster, the per diem is \$30/day. In addition, the statute provides for an allowance of \$2,400 per year for all legislators.

Section 379 of Chapter 133 of the Acts of 1992 amended Section 6 to specifically exclude expenses related to constituent and legislative services from the term "personal use." The section now provides, in relevant part:

For the purposes of this section the term "personal use" shall not include expenses relating to the provision of constituent or legislative services or to the opening or maintaining of a legislative district office, provided that said expenses are not otherwise paid, provided or reimbursed by the commonwealth or any other governmental body. [emphasis added].

The reasonable costs incurred in attending a legislative conference are clearly expenses "relating to the provision of constituent or legislative services." Section 6 as now drafted, compels the conclusion that your lodging expenses, as described in your letter, may be reimbursed by your political committee. Such reimbursement may not be made, however, if you are otherwise paid by the government for the same expenses, e.g., by the per diem.

We recognize that the allowances provided for by M.G.L. c. 3, s. 9B may not be adequate to cover any and all expenses that may be incurred by legislators. We are, however, obligated to apply the plain language of M.G.L. c. 55 and M.G.L. c. 3.

In AO-93-14, the advisory opinion which you referred to in your letter, we advised a state representative that campaign funds could not be used to pay the rent for a second residence in Boston. Such an unusual expense would be considered for the representative's "personal use" and therefore not an expense which could be paid from campaign funds. We determined that the representative could not use campaign funds for lodging since (1) the legislator received per diem provided for by M.G.L. c. 3 and (2) the maintenance of a second residence was more a matter of personal convenience, as opposed to an expense incidental to the provision of constituent or legislative services.

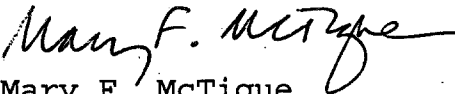
The expenditure at issue in AO-93-14 (rent payments for a second residence in Boston) can be distinguished from expenditures for the occasional night in a hotel when necessary to attend a legislative conference. The latter expenditure would generally be an expenditure which could be paid from campaign funds, i.e., it would not be for "personal use."²

2. The regulations issued by this office would also allow such expenditures to be made from campaign funds, provided the expenditures are reasonable and enhance the political future of the candidate. See 970 CMR 2.06(3)(d) and 970 CMR 2.05(2)(j)-(m).

However, where a legislator attends a legislative conference in Boston because the Legislature is in session, the legislator's lodging expenses, even if only occasional, are "otherwise paid, provided or reimbursed by the commonwealth" and therefore may not be reimbursed from campaign funds.³

This opinion is limited to the facts presented in your letter, and is solely in the context of M.G.L. c. 55. If you have additional questions, please do not hesitate to contact this office.

Very truly yours,


Mary F. McTigue
Director

MFm/cp

³. If the legislator remains in Boston to attend a political or campaign event, however, the additional expense could be reimbursed from campaign funds.